IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

WP(C).No. 5102 of 2007(G)

PETITIONERS:

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1. SHRITH A., ASSISTANT MANAGER,
   KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LTD., THIRUVANANTHAPUAM, RESIDING AT H.NO.38/99, CHUNGAM, WEST HILL P.O., KOZHIKODE.

2. BASIL T.K., ASSISTANT MANAGER,
   KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LTD., THIRUVANANTHAPURAM, RESIDING AT THAKKINKAL, CHELAD P.O., KALLAD, ERNAKULAM.

3. MOHANAN P.K., JUNIOR ASSISTANT,
   KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LTD., THIRUVANANTHAPURAM, RESIDING AT SREERAGAM, MEPPAYIL P.O., VATAKARA, KOZHIKODE.

4. JASMY S., JUNIOR ASSISTANT,
   KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LTD., THIRUVANANTHAPURAM, RESIDING AT AJMEER HOUSE, POOKADU, ANJUMOORTHY P.O., MANGALAM, PALAKKAD.

5. RADHAKRISHNAN I.J., JUNIOR ASSISTANT,
   KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LTD., THIRUVANANTHAPURAM, RESIDING AT NO.30, TC 8/1763, LEKSHMI NAGAR, THIRUMALA P.O., THIRUVANANTHAPURAM.

6. SHEEJA C.V., JUNIOR ASSISTANT,
   KARALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LTD., THIRUVANANTHAPURAM, RESIDING AT CHERUVALLIPARAMBIL, KUNNEL PURAYIDOM, CHINGAVANAM P.O., PALACHIRA, KOTTAYAM.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SECRETARY TO GOVERNMENT, TRANSPORT DEPARTMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

3. KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LTD., REPRESENTED BY ITS MANAGING DIRECTOR, TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM- 695 023.

4. THE MANAGING DIRECTOR, KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LTD., TRNSPORT BHAVAN, FORT, THIRUVANANTHAPURAM- 695 023.

R3 &R4 BY ADV. SRI.KRB.KAIMAL (SR.)
R1 & R2 BY ADVOCATE GENERAL SRI. C.P.SUDHAKARA PRASAD.
BY GOVT. PLEADER SRI. T.T. MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 5102/2007.

APPENDIX

PETITIONERS' EXTS:

EXT. P1 : TRUE COPY OF THE NOTIFICATION PUBLISHED BY THE CORPORATION IN THE INDIAN EXPESS DAILY DATED 15.12.1999.

EXT. P2 : TRUE COPYOF THE LETTER ISSUED BY THE CORPORATION DIRECTING THE FIRST PETITIONER TO APPEAR FOR INTERVIEW DATED 7.8.2000.

EXT. P2 (a) : TRUE COPY OF THE LETTER ISSUED BY THE CORPORATION DIRECTING THE THIRD PETITIONER TO APPEAR FOR INTERVIEW DATED 7.8.2000.

EXT. P2 (b) : TRUE COPY OF THE LETTER ISSUED BY THE CORPORATION DIRECTING THE FOURTH PETITIONER TO APPEAR FOR INTERVIEW DATED 7.8.2000.

EXT. P3 : TRUE COPY OF THE ORDER OF APPOINTMENT OF THE FIRST PETITIOENR DATED 3.10.2000.

EXT. P3(a) : TRUE COPY OF THE ORDER OF APPOINTMENT OF THE SECOND PETITIONER DATED 7.10.2000.

EXT. P3 (b) : TRUE COPY OF THE ORDER OF APPOINTMENT OF THE THIRD PETITIONER DATED 3.10.2000.

EXT. P3(c) : TRUE COPY OF THE ORDER OF APPOINTMENT OF THE FIFTH PETITIONER DATED 3.10.2000.

EXT. P3 (d) : TRUE COPY OF THE ORDER OF APPOINTMENT OF THE SIXTH PETITIONER DATED 3.10.2000.

EXT. P3 (e) : TRUE COPY OF THE MEMORANDUM ISSUED BY THE FOURTH RESPONDENT DATED 16.10.2000.

EXT. P4 : TRUE COPY OF THE MEMORANDUM OF ARTICLES OF ASSOCIATION OF THE KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LIMITED DATED NIL.

EXT. P5 : TRUE COPY OF THE STAFF PATTERN OF THE KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LIMITED DATED NIL.

EXT. P6 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE CORPORIATION TO THE GOVERNMENT DATED 4.10.2005.

EXT. P7 : TRUE COPY OF THE G.O.(MS) NO. 15/06 DATED 22.2.2006.

EXT. P8 : TRUE COPY OF G.O.(MS) NO.14/2006 DATED 22.2.2006.

EXT. P9 : TRUE COPY OF THE G.O.(MS) NO.13/2006 DATED 22.2.2006.

EXT. P10 SERIES: TRYE COPY OF THE ORDERS OF REGULARISATION ISSUED TO THE PETITIOENRS DATED 23.2.2006.

EXT. P11 : TRUE COPY OF G.O..(MS) NO.4/2007/TRAN DATED 12.2.2007.

RESPONDENTS' EXTS:

EXT. R3(a) : TRUE COPYOF THE ORDER NO.EST.A/3579/2005-2006/KTDFC DATED 13.2.2007 ISSUED BY THE 3RD RESPONDENT.

K.M.JOSEPH, J.

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WP.(C) No. 5102 OF 2007

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Dated this the 9th day of April, 2007

JUDGMENT

Ext.P11 is the impugned order. Heard counsel for the petitioners and the learned Advocate General.

2. One of the contentions taken by the petitioners is that before Ext.P11 is issued, petitioners were not put on notice or heard. In short they alleged violation of natural justice. Counsel for the petitioners points out that even the stand of the respondents in the counter affidavit is that petitioners have been appointed against sanctioned posts and after a due process and in conformity with the principles of communal rotation. There is no dispute that the petitioners were not heard before Ext.P11 was issued. In view of the admitted position that Ext.P11 was issued without affording an opportunity of hearing to the petitioners, Ext.P11, in so far as it relates to the petitioners, is liable to be quashed.

Accordingly Ext.P11, in so far as it relates to the petitioners, is quashed. However I make it clear that it is open to the first respondent to proceed to afford an opportunity of hearing to the petitioners and

take a decision in the matter in accordance with law. In case the proceedings are so initiated by the first respondent, petitioners shall be free to urge all contentions and I leave open the contentions of the petitioners.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.